

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-3375 FMO (GJSx)	Date	May 24, 2017
Title	Clarence Collins v. Garfield Beach CVS, LLC		

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Present: The Honorable	Fernando M. Olguin, United States District Judge
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Vanessa Figueroa

None

None

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Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorney Present for Plaintiff(s):

Attorney Present for Defendant(s):

None Present

None Present

**Proceedings: (In Chambers) Order to Show Cause Re: Remand**

On March 29, 2017, plaintiff Clarence Collins ("plaintiff") filed a complaint against Garfield Beach CVS, LLC ("Garfield Beach" or "defendant")<sup>1</sup> and "Does 1-75, inclusive" in Los Angeles County Superior Court. (See Dkt. 1, Notice of Removal ("NOR") at ¶ 1; Dkt 1-1, Exhibit A ("Complaint")). On May 4, 2017, defendant removed that action on diversity jurisdiction grounds pursuant to 28 U.S.C. § 1332(a) and §§ 1441(a) & (b). (See Dkt. 1, NOR at ¶ 6).

Plaintiff alleges that Defendant Doe 1 is "a pharmacist duly licensed to practice his/her profession in the State of California." (See Dkt. 1-1, Complaint at ¶ 4). According to plaintiff, Defendant Doe 1 "was engaged in the filling of prescriptions for drugs for the general public," (see id. at ¶ 8), and "misfilled" plaintiff's prescriptions. (See id. at ¶ 9). As a result, plaintiff alleges that he was "hurt and injured in his health . . . sustaining injury to his nervous system and person[.]" (See id. at ¶ 11).

Having reviewed the NOR and its attachments, the court questions whether it is proper to consider Defendant Doe 1 as a "fictitious" defendant. The Complaint identifies the specific store location where Defendant Doe 1 was employed as a pharmacist – the CVS pharmacy at 2130 N. Bellflower Blvd. in Long Beach, CA. (See Dkt. 1-1, Complaint at ¶¶ 1, 4-5 & 8). The Complaint also specifies a particular date – April 4, 2016 – that Defendant Doe 1 was employed by defendant. (See id. at ¶ 9). These allegations indicate that Defendant Doe 1 is a bona fide, easily identifiable defendant, and a California resident.

Based on the foregoing, IT IS ORDERED THAT:

1. No later than **May 31, 2017**, the parties shall each file a Response to this OSC, not to exceed five (5) pages, addressing whether this action should be remanded for lack of subject matter jurisdiction. Among other things, the parties shall identify Defendant Doe 1 and set forth

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<sup>1</sup> The complaint erroneously identified defendant as "CVS Pharmacy, Inc."

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the relevant facts in each party's possession regarding the citizenship of Defendant Doe 1.

2. Failure by defendant to respond to this order to show cause by the deadline set forth above shall be deemed as consent to remand the action.

Initials of Preparer 00 : 00  
vdr